

**SEALED**

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David Abrams, Attorney at Law (NY 3051604)  
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New York, NY 10008  
212-897-5821 dnabrams@gmail.com

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FILED

MAY 10 2024

CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_ Deputy

KR

United States District Court  
Northern District of Texas

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United States of America ex rel. )  
GNGH2 Inc., )  
Plaintiff-Relator, )  
)  
- against - )  
)  
SW NORTH AMERICA INC., )  
)  
Defendant. )  
)

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**TO BE FILED UNDER**  
**SEAL**

3 - 24 CV 1123 - N

Case No.

**Complaint Under the False**  
**Claims Act**

Plaintiff-Relator, complaining of the Defendants by its attorney, David Abrams, Attorney at Law, respectfully sets forth and alleges as follows:

### **I. Nature of the Case**

1. This is a false claims act claim. The Qui Tam Plaintiff and Relator, GNGH2 Inc. ("Relator"), alleges that the Defendant fraudulently obtained CARES Act disaster relief by means of fraudulent certifications of eligibility. As set forth in more detail below, second-round PPP funding is barred to entities which are owned by concerns with significant operations in the People's Republic of China and to entities which exceed size standards.

## **II. Parties**

2. Defendant SW NORTH AMERICA INC. ("Defendant") is a Michigan corporation with a principal place of business in New Hudson, Michigan.
3. The Relator, GNGH2 Inc. ("Relator" or "Plaintiff") is a New Jersey corporation with a principal office in Bergen County, New Jersey.

## **III Compliance with Requirements of Suit**

4. This matter will be filed under seal pursuant to 31 U.S.C. Section 3730(b) and at or about the same time, a copy of the Complaint, any Sealing Order, and Relator's disclosure of evidence will be served on the Department of Justice and the United States Attorney for the District in which this matter has been filed.
5. Relator will not serve the Complaint or any other papers in this matter until and unless it becomes unsealed. Thus, if the Complaint is served on the Defendant, it means that the matter has been duly unsealed.

## **IV. Jurisdiction and Venue**

6. This Court has jurisdiction pursuant to 31 U.S.C. Section 3732(a) which provides that this type of action may be brought in any district where any Defendant resides or transacts business. In this case, the loan at issue was obtained through Comerica Bank in **Dallas County, Texas**.

## **V. Background**

7. Throughout most of 2020 and continuing into 2021, the United States was faced with a large scale outbreak of the virus commonly known as "Coronavirus" and "COVID-19." (the "Coronavirus Epidemic").

8. In addition to the Coronavirus Epidemic itself, the United States was faced with large scale outbreaks of panic and hysteria as a result of the Coronavirus Epidemic.

9. All of the above has resulted in major economic disruption and as a result Congress enacted the Coronavirus Aid, Relief, and Economic Security Act, commonly known as the "CARES Act."

10. The CARES Act contains a provision which permitted qualifying business which were affected by the foregoing disruption to obtain forgivable disaster loans.

11. The CARES Act was subsequently amended to provide for a second round of disaster funding. Significantly, an applicant is ineligible for such funding if it is owned by a concern with significant operations in the People's Republic of China or if, when combined with its affiliates, it exceeds applicable size standards.

**[continued on next page]**

12. The Defendant in this matter is firm which supplies machining equipment.

It received second draw PPP disaster relief as follows:

<b>Date</b>	<b>Amount</b>	<b>Loan #</b>	<b>Forgiven</b>
3/26/2021	\$1,204,400	2908068606	9/20/2021

13. Thus, on or about March 26, 2021, Defendant completed Form 2483-SD

which required it to certify as follows:

The Applicant is not a business concern or entity (a) for which an entity created in or organized under the laws of the People's Republic of China or the Special Administrative Region of Hong Kong, or that has significant operations in the People's Republic of China or the Special Administrative Region of Hong Kong, owns or holds, directly or indirectly, not less than 20 percent of the economic interest of the business concern or entity, including as equity shares or a capital or profit interest in a limited liability company or partnership; or (b) that retains, as a member of the board of directors of the business concern, a person who is a resident of the People's Republic of China

14. This certification was false when made as set forth below.

15. At all times relevant to this matter, the Defendant was a subsidiary of an entity known as Süddeutsche Beteiligung GmbH which has significant operations in China. Additionally, the Defendant and its affiliates did not conform to the SBA's applicable size standards in contradiction to another certification.

16. Moreover, the foregoing information is available on the websites of the Defendant and/or its corporate parent.

17. Thus, Defendant's authorized representative must have been either aware of this information or reckless in regards to same.

18. Thus, Defendant made a fraudulent representation when it completed form 2483-SD and certified eligibility in respect of the above matters.

19. As a result of these statements, the Defendant received (and the United States paid) substantial funds to which it would not otherwise have been entitled.

## **VI. (Count I) Violation of the False Claims Act**

20. The False Claims Act imposes liability on a person or entity who "knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim" 31 U.S.C. Section 3729(a)(1)(B)

21. The Courts have held that this can include false statements regarding eligibility to participate in a program. See *United States ex rel. Kirk v. Schindler Elevator Corp.*, 601 F.3d 94, 116 (2d Cir. 2010), rev'd on other grounds, 131 S.Ct. 1885 (2011) ("[C]laims may be false even though the services are provided as claimed if, for example, the claimant is ineligible to participate in the program.")

22. Thus, the Defendant's certifications of eligibility violated the False Claims Act because they were false and required for eligibility for disaster relief.

## **VII. Relief Sought**

23. On behalf of the government, Relator is seeking judgment for triple damages and civil penalties set forth in 31 U.S.C. Section 3729.

24. The United States paid some \$1,210,555.82 in principal and interest in respect of the above loan.

25. Additionally, the United States paid \$36,316.67 in processing fees in respect of the above loan.

26. Accordingly, Relator seeks judgment in the amount of \$3,740,617.48 against the Defendant and in favor of the United States, together with costs, interest, civil penalties, an appropriate qui tam award, and such other and further relief as the Court deems just.

Respectfully submitted,



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David Abrams, Attorney at Law  
Attorney for Relator  
GNGH2 Inc.

PO Box 3353 Church Street Station  
New York, NY 10008  
Tel. 212-897-5821  
Fax 212-897-5811

Dated: Delhi, New York  
May 8, 2024

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

GNGH2, Inc.

**(b)** County of Residence of First Listed Plaintiff Bergen, New Jersey  
(EXCEPT IN U.S. PLAINTIFF CASES)

**(c)** Attorneys (Firm Name, Address, and Telephone Number)

David Abrams, PO Box 3353 Church Street Stn  
New York NY 10008

**DEFENDANTS**

SW North America, Inc.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

MAY 10 2024

CLERK U.S. DISTRICT COURT

N.Y. (Place an "X" in One Box for Plaintiff and One Box for Defendant)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input checked="" type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input checked="" type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<b>INTELLECTUAL PROPERTY RIGHTS</b>	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation	<b>Habeas Corpus:</b>	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 530 General	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 535 Death Penalty	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Torts Product Liability	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 871 IRS—Third Party	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 555 Prison Condition	26 USC 7609	<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from Another District  6 Multidistrict Litigation - Transfer  8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
False Claims Act**VI. CAUSE OF ACTION**Brief description of cause:  
Disaster Relief Fraud**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE N/A

DOCKET NUMBER

DATE

05/08/2024

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

David Abrams, Attorney at Law

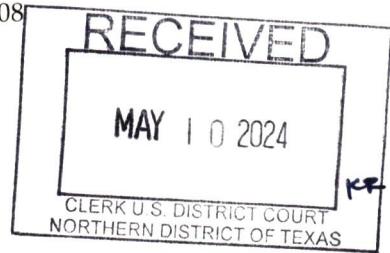
PO Box 3353 Church Street Station, New York, NY 10008

Tel. 212-897-5821 Fax 212-897-5811

Delhi, New York

**TO BE SUBMITTED UNDER SEAL**

May 8, 2024



To: Clerk of the Court  
United States District Court Northern District of Texas  
1100 Commerce Street, Room 1452  
Dallas, TX 75242

Re: United States ex rel. GNGH2 Inc. v. SW North America Inc.

Dear Sir / Madam:

I represent the Relator in the above-referenced matter. I am respectfully submitting for filing *under seal* an original and 1 copy of (1) complaint; (2) civil cover sheet; (3) Certificate of Interested Parties; and (4) Motion for Temporary Relief from Local Counsel Requirement.

In addition, I am submitting a check in the amount of \$405 and a self-addressed envelope.

I am requesting that you process the above documents and provide me with a file stamped copy of the complaint for service on the United States Attorneys Office and the Department of Justice.

Thank you for your attention to this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David Abrams".

David Abrams

Enclosures

**U.S. District Court****Texas Northern - Dallas**

Receipt Date: May 10, 2024 11:40AM

David Abrams, Attorney at Law

Rcpt. No: 300011798

Trans. Date: May 10, 2024 11:40AM

Cashier ID: #KR

CD	Purpose	Case/Party/Defendant	Qty	Price	Amt
200	Civil Filing Fee- Non-Prisoner	FBO: GNGH2	1	405.00	405.00

CD	Tender		Amt	
CH	Check	#2798	05/8/2024	\$405.00
			Total Due Prior to Payment:	\$405.00
			Total Tendered:	\$405.00
			Total Cash Received:	\$0.00
			Cash Change Amount:	\$0.00

Only when the bank clears the check, money order, or verifies credit of funds, is the fee or debt officially paid or discharged. A \$53 fee will be charged for a returned check.

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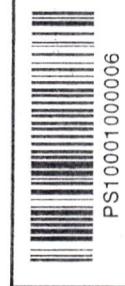
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